

78

INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

THE UNITED STATES OF AMERICA,
et al.,

-vs-

ARAKI, Sadao, et al.

REQUEST OF THE ACCUSED, YOSUKE MATSUOKA, FOR
CONFINEMENT IN A PRIVATE SANITARIUM.

COMES now Shunzo Kobayashi, Franklin E. M. Warren, and Alfred W. Brooks, counsel for the accused, Yosuke Matsuoka, appearing specially and in his behalf, and request this Tribunal to enter the proper order permitting the said accused, because of his physical condition, to be hospitalized in a private sanitarium, and in support thereof present to the Court the following information:

1. That heretofore, and on the 8th day of May 1946, this Tribunal entered its order requiring the Provost Marshal, A. S. Kenworthy, Lt. Colonel, to deliver into the custody of the 361st Hospital the accused, Matsuoka, to be kept in custody therein until such time as a medical examination had been completed. That such medical examination has now been completed and the reports of the physicians concur with respect to his physical condition and agree that he is physically unable to be present in court, and is in need of proper medical attention.

2. In view of the reports of the physicians referred to in the previous paragraph, it is requested that the Tribunal authorize and direct the transfer of the accused, Yosuke Matsuoka, to the isolation ward of the Tokyo Imperial University Hospital for proper care and treatment under the direction of Dr. Kozo Sakaguchi, who agrees to be responsible for the

to be records and files from such offices, without further

custody, control and treatment of such accused, subject to the order of this Tribunal, and in support thereof will file with this Tribunal any necessary documents or further information required.

3. It is requested that the name of Yosuke Matsuoka be struck from the Indictment, or in lieu thereof that the present proceedings against him be stayed until such time as he is physically capable of proceeding to trial, and in support thereof suggest to the Tribunal that the physicians' reports, hereinbefore referred to, indicate that the physical condition of the accused is such that he is physically incapable of proceeding to trial, and is not in a proper physical condition to advise with counsel in the preparation of his defense, to assist in the procurement of evidence and witnesses, or to be present at the cross-examination of witnesses who will appear against him, or give advice to counsel with reference to documentary evidence introduced and arguments made thereon by counsel for the prosecution, and as a result thereof cannot adequately advise with his own counsel. The request is further prefaced on the condition that the accused desires the opportunity to testify, if necessary, and to prepare and present an adequate defense which would be in conformance with the fair trial provisions of the Charter creating this Tribunal.

4. That the Tribunal take such further actions or proceedings as they may deem just and proper in the premises.

/s/ Shunzo Kobayashi
SHUNZO KOBAYASHI

/s/ Franklin E. N. Warren
FRANKLIN E. N. WARREN

/s/ Alfred W. Brooks
ALFRED W. BROOKS

to be records and files from such offices, without further